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Irish Life

CAPITAL ACQUISITIONS TAX AND SECTION 72 FREQUENTLY ASKED QUESTIONS

LIFE ADVISORY SERVICES

For Financial Advisors only

CAPTIAL ACQUISITONS TAX - the basics

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CAPTIAL ACQUISITONS TAX - the basics

What is Capital Acquisitions Tax (CAT)?

CAT is a tax you pay when you receive a gift or an inheritance. CAT comprises two separate taxes - a Gift Tax payable on lifetime gifts and an Inheritance Tax payable on inheritances received on death. It is the person receiving the gift or inheritance who is liable to CAT and not the person or estate providing the benefit.

How is it charged?

With effect from 1st December 1999, a charge to CAT will arise where either the disponer (the person giving the asset) or the beneficiary (the person receiving the asset) is resident or ordinarily resident in the State at the date of the Gift or Inheritance.

Where both the disponer and the beneficiary are not resident or ordinarily resident in Ireland, a charge to tax would only arise in relation to Irish property.

What is the tax rate?

33% is the current rate of tax on gifts or inheritances received by a beneficiary.
Source CAT Consolidation Act 2003 (as updated by subsequent Finance Acts).

Can you get any amount tax free?

The amount a beneficiary can receive tax free depends on their relationship to the 'disponer'.

Group Thresholds

Group 1 **€320,000**	Where the person receiving the property is • a child of the disponer or, • a child of the civil partner of the disponer, or, • a minor child of a deceased child of the disponer or, • a minor child of a deceased child of the civil partner of the disponer, or, • a minor child of the civil partner of a deceased child of the disponer, or, • a minor child of the civil partner of a deceased child of the civil partner of the disponer.
Group 2 **€32,500**	Where the person receiving the property is • a lineal ancestor of the disponer, • a descendant of the disponer, • a brother/sister of the disponer, or, • a child of a brother/sister of the disponer, or, • a child of a civil partner of a brother or sister of the disponer.
Group 3 **€16,250**	All other cases

The threshold amounts are those applying with effect from 10th October 2018.
Source CAT Consolidation Act 2003 (as updated by subsequent Finance Acts).

Is that tax free amount per gift and per inheritance?

No. The tax free threshold amount is the total amount you can receive tax free in your lifetime, from each different 'group'.

Under the current rules (called aggregation rules) all benefits from Group 1 will be added together with an overall threshold of €320,000.

Benefits from Group 2 members (brother, sister, grandparent etc) will be added together for the purpose of the €32,500 threshold, and benefits from Group 3 members (strangers) for the purpose of the €16,250 threshold.

So in effect a beneficiary can potentially receive up to €368,750 tax-free if the benefits come through different "groups".

Is tax payable on everything you receive as a gift or inheritance?

While tax is payable on all assets you receive certain reliefs and exemptions apply to certain types of assets. The main reliefs are:

Agricultural Relief – the value of farmland, buildings and stock can be reduced by 90% where the beneficiary is a qualifying farmer and holds the property for a minimum of 6 years.

Business Relief – can provide a similar reduction of 90% in the value of certain businesses or private companies, where both the business and the beneficiary meet certain conditions.

Family Home Exemption – exemption from Gift and Inheritance Tax is available on the value of certain "dwellings" with up to an acre of land where the disponer and the beneficiary meet certain conditions.

Life Assurance Relief – the proceeds of life assurance plans, where the plan was effected specifically for the payment of Inheritance Tax or the tax payable on the value of an Approved Retirement Fund (ARF) inherited by a child over the age of 21, will not be subject to Inheritance Tax – provided the money is actually used to pay the relevant tax bills.

This 'Life Assurance Relief' is commonly referred to as 'Section 72 Relief'

SECTION 72

How to structure the plan

Plan Details	Section 72 Relief
Life Assured	Person leaving assets / disponer
Plan Owner	Person leaving assets / disponer
In Trust	Yes – Special Section 72 Trust Form
Payer of premiums	Person leaving assets / disponer

How to complete the Section 72 declaration on the application form

2. Inheritance Planning - Life Long Insurance (section 72)

Amount of Life Cover you want €

Fill in level of cover required

Do you want Inflation Protection Yes ◯ No ◯

Is indexation required? Yes or No

Do you want this plan to be eligible for relief under Section 72 of the CAT Consolidation Act 2003? Yes ✔ No ◯
You would usually do this if this plan is being used for inheritance tax planning.

Tick Yes for section 72 plan

If you intend to use this plan for inheritance tax planning, have you filled in a trust request form? Yes ◯ No ◯
If 'No', please read and sign the statement below.

If 'No', please read and sign the statement below

I am aware that if I do not fill in a trust form or provide for this plan in my will the proceeds will not qualify for relief under Section 72 of the CAT Consolidation Act 2003 and therefore my beneficiaries will have to pay more inheritance tax.

Signature of the first person to be covered X

Date / /

Signature of the second person to be covered X

Date / /

If there is no trust form completed the declaration at section 2 must be signed by the life / lives assured / plan owners

Can the beneficiary of the estate, the person who will pay the tax bill, be the plan owner / proposer on the Section 72 contract?

No. For relief under Section 72 CAT Consolidation Act to apply the person leaving the assets must be the plan owner, must be the life assured and must pay the premiums on the qualifying plan.

If the person who is going to be paying the tax bill, the beneficiary, wants to pay the premiums on the plan themselves then that is simply just a 'life of another' contract with the beneficiary as the plan owner, and the payer of premiums and the 'disponer' or the person who is leaving the assets, as the life assured. The insurable interest is the fact that the beneficiary will have a tax liability to pay on the death of the life assured.

Can the beneficiary of the estate pay the premium on the policy for example a son pays the premiums on his parents Section 72 plan?

No. In line with Revenue Guidance Notes for eligibility for Section 72 relief, the life assured , the payer of the premiums and the person leaving assets must be the same person.

However, if the person who is going to be paying the tax bill, the beneficiary, wants to pay the premiums on the plan themselves, then that is simply just a 'life of another' contract with the beneficiary as the plan owner, and the payer of premiums and the 'disponer' or the person who is leaving the assets, as the life assured. The insurable interest is the fact that the beneficiary will have a tax liability to pay on the death of the life assured.

Can an existing plan be amended to be eligible for relief from Inheritance Tax?

No. The plan has to be taken out specifically from day 1 as a 'special' plan to pay inheritance tax. What the Revenue Guidance Notes state is that the plan has to be taken out expressly to pay Inheritance Tax.

What happens if the Inheritance Tax bill is LESS than the level of cover under the plan?

The amount of the sum assured actually used to pay inheritance tax is exempt from inheritance tax. Any proceeds not used to pay inheritance tax (excess sum assured over inheritance tax bill) are a taxable inheritance.

Can an unmarried couple who are living together effect a joint life Section 72 plan?

No. Only legal spouses or registered civil partners can effect a joint life Section 72 plan. Where a non-married couple wish to use Section 72 relief they will have to effect two separate single life plans.

Can a term assurance plan be used to avail of this relief?

Technically yes you can but Irish Life's approved plan is a guaranteed whole of life arrangement. Please note however, that if a term assurance plan is effected with another company for the purpose of using Section 72 relief the term of the plan must be at least 8 years.

What happens if the person dies before the 8 years is up?

The relief will NOT be lost as long as the plan was set up for a term of at least 8 years from the outset.

Can the sum assured be reduced?

Yes. Where the plan terms and conditions allow it yes the sum assured can be reduced BUT the life cover must never be lower than 8 times the annual premium, or 6 times the annual premium where there is a loading on the contract.

Can the premium be reduced?

Yes. Again, where the plan terms and conditions allow it, the premium on a 'qualifying' plan can be reduced.

However, if the premium doubles or halves in any eight year period this COULD result in the plan losing its' eligibility for relief if this change is not as a result of a change to the sum assured or as a result of a policy review on a unit linked case.

So on the current Irish Life GUARANTEED plan, because any changes to the premium will ALWAYS result in a change to the sum assured, the plan will NOT lose it's eligibility for relief as a result of a premium change .....just remember though the sum assured must always be at least 8 or 6 times the annual premium (see previous question) .

Can the premiums re-start if a premium is missed and the contract lapses?

No. If a premium is missed and this causes the contract to lapse this means the contract has lost it's eligibility for relief.

Premiums can re-start to continue the life cover, but the plan will no longer be eligible for relief from Inheritance Tax.

If the plan is cancelled will it still be eligible for relief under Section 72 if the premiums re-start?

No. If the plan is cancelled this means the contract has lost it's eligibility for relief.

Premiums can re-start to continue the life cover, if this option is available under the policy conditions, but the plan will no longer be eligible for relief from Inheritance Tax.

Can the plan be assigned?

No. If the plan is issued in trust it cannot be assigned. If it has not been issued in trust any assignment over the plan would result in the plan losing its eligibility for relief.

THE IRISH LIFE SECTION 72 TRUST FORM

Does the plan have to be issued in trust?

Yes. Revenue Guidance Notes for 'qualifying' plan recommend that the plan be issued in Trust 'with an appropriate trust instrument specifying whether all or merely some of the successors on the insured person's death are to benefit from the proceeds of the plan'.

This will ensure that

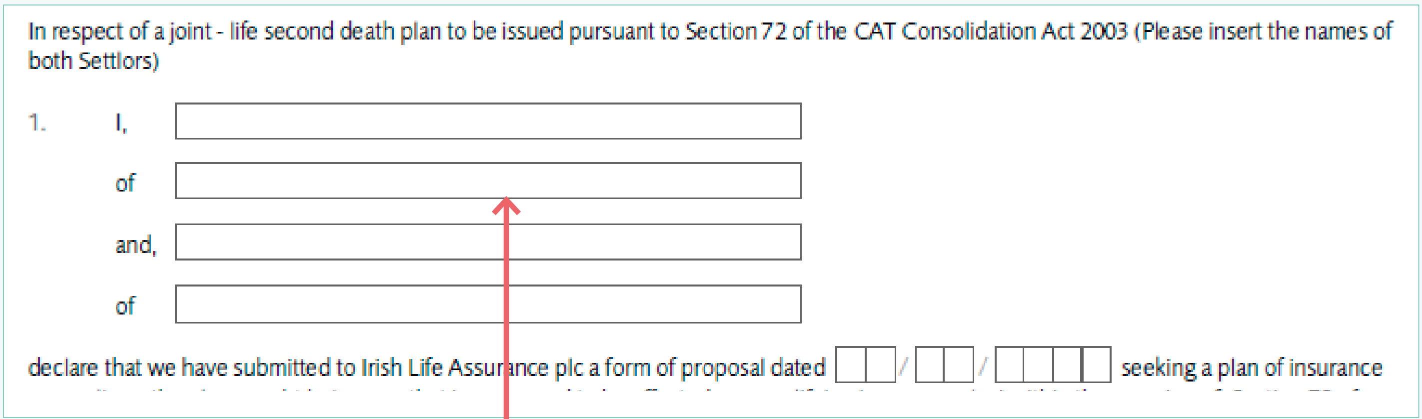
- The plan proceeds are used only, in the first instance, to pay Inheritance Tax. Any surplus may revert to next of kin.
- The proceeds will be paid immediately on death to the nominated Trustee. The proceeds would not go into the estate.
- The Trust gives flexibility in determining which beneficiaries are to benefit from the plan, and in what proportions.

There is a 'special' Section 72 Inheritance Tax Trust Form attached to / included with the Life Long Cover (Inheritance Tax) application form.

Who is the Settlor?

The Settlor is the Life Assured on the plan and under our special Inheritance Tax Trust Form the Settlor is also the initial Trustee.

Where is the Settlors name put into the trust form?



In respect of a joint - life second death plan to be issued pursuant to Section 72 of the CAT Consolidation Act 2003 (Please insert the names of both Settlors)

1. I,

of

and,

of

declare that we have submitted to Irish Life Assurance plc a form of proposal dated / / seeking a plan of insurance

The Settlors details are inserted at Section 1 of the Trust Form. The name and address of the Settlor / Life Assured (i.e. First Person to be covered), along with the date the application form for cover was completed.

What power does the Settlor have?

The Settlor has the power to appoint a new or additional Trustee and could also remove any such Trustee.

The Settlor also has the power to alter the beneficiaries during the lifetime of the plan. Irish Life can provide a relevant Deed to do this.

The Settlor has the power to nominate an 'appointor' or change the appointor at any time during the lifetime of the plan. Irish Life needs to be notified in writing of this change. A letter detailing the name and address of the new appointor will be sufficient to make this change, a Deed is not required.

Who are the Trustees?

The Trustees are the legal owners of the plan and are directed to hold the plan for the benefit of the Beneficiaries.

In the Irish Life Trust Form the Settlor / life assured is the initial Trustee.

The form does not make any provision for the appointment of any additional Trustees at outset, but they may be added at any time. Irish Life must be informed in writing of any such appointment by deed of additional Trustees.

What powers do the Trustees have?

The Trustees have the power to alter the beneficiaries during the lifetime of the plan. Irish Life can provide a relevant Deed to do this.

The Trustees have the power to nominate an 'appointor' or change the appointor at any time during the lifetime of the plan. Irish Life needs to be notified in writing of this change. A letter detailing the name and address of the new appointor will be sufficient to make this change, a Deed is not required. Irish Life can only deal with Trustees, the legal owners of the plan, in all queries / alterations to the plan. We request that we be notified in writing by the Trustees of any change to the trust.

Who is the appointor on the death of the Settlor and what power does he/she have?

The appointor is the person who has the power to appoint a Trustee after the Settlor's death, where there is no Trustee available to deal with the contract. On the death of the life / lives assured we contact the 'appointor'

Where is the appointor named on the Trust Form?

4. The power to appoint new or additional trustees shall during my life be vested in the Settlors and in the survivor of them.
After the death of the survivor of the Settlors that power shall be vested in

of

or in such other person as the Settlors or the survivor of them may hereafter by notice in writing to the Company substitute therefore, or if no person is nominated, in the personal representative or representatives of the survivor of the Settlors.

Note: You may insert the name and address of a person with power to appoint a trustee after the death of both Settlors, if you so wish.

Section 4 of the Trust form makes provision for the appointment of an appointor.
If this power is to remain with the Settlor and on his/her death, to go to the Legal Personal Representative of the estate, please leave Section 4 blank.

If a nominated person is to be appointed, please insert their name and address in the space provided

Can the appointor be changed?

The Settlor / Trustees have the power to nominate an 'appointor' or change the appointor at any time during the lifetime of the plan. Irish Life needs to be notified in writing of this change. A letter detailing the name and address of the new appointor will be sufficient to make this change, a Deed is not required.

Who are the Beneficiaries?

A Beneficiary is a person for whom the plan is held on Trust by the Trustees. The beneficiaries are the people who will have an inheritance tax liability on the death of the life / lives assured.

The Settlor can specify in Section 3 who the Beneficiaries of the plan will be on death and the life cover amount will be paid out to those Beneficiaries in the same proportion as their individual liability bears to their combined liabilities.

3. The trusts that we as Settlors so declare, and which we as trustees for the time being hereby assume, are to hold the Plan and the benefits which may thereunder accrue:

(a) UPON TRUST, if a benefit of the plan shall become payable by reason of the death of us the Settlors or one of us while the Plan is still a qualifying insurance plan within the meaning of Section 72 of the CAT Consolidation Act 2003 (as amended), to pay Relevant Tax for which any of our successors is primarily accountable, in such proportions as we the Settlors or the survivor of us shall by deed appoint (and in default of and subject to any appointment), to pay Relevant Tax for which the following persons shall be primarily accountable in the proportion to which they shall be accountable.

Beneficiaries

If this section is not completed the proceeds will be used to pay Relevant Tax for all beneficiaries in their respective proportions.

(b) UPON TRUST, if there is a surplus remaining due under the Plan after paying Relevant Tax, or if the Plan ceases at the death of the surviving Settlor to be a qualifying insurance plan, to transfer the surplus to the legal personal representative or representatives of the surviving Settlor to hold as part of his or her estate.

Can the Beneficiaries be changed?

The Trustees have the power to alter the beneficiaries during the lifetime of the policy. Irish Life can provide you will a relevant Deed to do this.

What would happen if no Beneficiaries are specified in the Trust form?

If no Beneficiaries are specified under Section 3(a) of the Trust form, the life cover amount will be paid out to all beneficiaries of the Estate, in their respective proportions.

Therefore, if the client wishes to provide for the liabilities of all beneficiaries of the Estate, please leave Section 3 blank. The life cover amount will then be split between all beneficiaries of the Estate in the same proportion as their liability bears to the entire inheritance tax liability. Any surplus will be paid into the Settlor's estate and will be taxable.

What happens when the life assured dies?

On the death of the Settlor, the life cover amount will be paid to the Trustees, who will pay it over to the Beneficiaries, who will use it to pay their inheritance tax liabilities.

If the Settlor is the only Trustee, we will then either pay over to the Legal Personal Representative of the Estate or to whoever has been appointed by the nominated person under Section 4 of the trust form, as Trustee.

If there is a surplus remaining, after paying the inheritance tax of the Beneficiaries, it is paid into the Settlor's estate and will be taxable.

If the plan no longer qualifies for relief under Section 72, the life cover amount will be paid into the Settlor's estate and will be taxable.

We advise that you and your client seek professional tax advice as the information given is a guideline only and does not take into account you or your client's personal circumstances.

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